



## **AGENDA**

Board of Zoning Appeals Meeting  
Tuesday, August 25, 2020  
6:00 pm  
Gardner City Hall  
120 E. Main Street

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **ROLL CALL**

### **REGULAR AGENDA**

1. **ELECTION OF OFFICERS**  
Two Positions, the office of Chairman and Vice-Chairman
2. **VARIANCE REQUEST – 15415 Lake Road 3 Street, Gardner, KS 66030**  
**BZA-20-01:** The applicant is requesting a rear yard setback variance to allow the addition of a 23.6' x 29' (684.4 square foot) double-car garage and additional living space above, 15' from the rear (West) property line.

### **ADJOURNMENT**

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**PROJECT NUMBER / TITLE:** BZA-20-01

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**APPLICANT:** Suzanne E. Townley

**REQUESTED ACTION:** The applicant is requesting a rear yard setback variance to allow the addition of a 23.6' x 29' (684.4 square foot) double-car garage and additional living space above, 15' from the rear (West) property line.

**LOCATION:** 15415 Lake Road 3 Street, Gardner, KS 66030

**EXISTING ZONING AND LAND USE:** Single-Family Residential District (R-1) zoning and single-family residential land use

**RELEVANT REGULATIONS:** The variance is being requested from Section 17.07.040, standards for the *Detached House – Suburban* building type, Rear Building Placement (setback). The *Land Development Code* (LDC) requires a 25-foot rear yard setback for a *Detached House – Suburban* building type. The existing house currently has a rear setback of approximately 38 feet. As proposed, the addition would encroach approximately 10 feet into the required rear setback.

It is important to note that the existing lot is nonconforming to the requirements of the current LDC, specifically the minimum lot standards of Table 7-2 *Residential District Building Type and Development Standards* in Section 17.07.020 for a *Detached House – Suburban* building type. The existing lots located in the Gardner Lake area are smaller than required by the designated R-1 zoning.

**STAFF ANALYSIS OF THE APPLICATION:** The applicant is requesting a rear yard setback variance to allow the addition of a 23.6' x 29' (684.4 square foot) double-car garage 15' from the rear (West) property line. A minimum rear yard setback of 25' is required for a Detached House – Suburban building type in an R-1, Single-Family Residential District.

The applicant proposes a 684.4 square foot enclosed, double-car garage, with living space above, which includes two additional bedrooms, a bathroom, and a small deck on the south side of the home. The proposed construction will be 8.3' from the north (side) property line, 7.2' from the south (side) property line, and 15' from the west (rear) property line. The proposed construction meets all setback requirements besides the rear setback requirement.

**VARIANCE CRITERIA:** Pursuant to the requirements of K.S.A. 12-715 and Chapter 18.190 of the City Code, The Board of Zoning Appeals may only grant a variance from the Zoning Ordinance if the Board finds that *all* of the following five conditions have been met. The applicant has provided responses to each of the five conditions; these responses have been provided below along with staff's responses.

**Does the variance request arise from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant?** *(To meet the criterion, a “yes” answer is required)*

Applicant: Yes. The lots at Gardner lake do not meet the minimum standards for lots according to the current Land Development Code. All other residential lots on Lake Road 3 Street are wider by 4-5 feet. Adjacent properties already have attached garages and extend further into the front and side setbacks than I am proposing. In addition, there is no public maintenance of Lake Road 3 Street for at least 100' from the lot line.

Staff: The existing lot is nonconforming to the requirements of the current LDC, specifically the minimum lot standards of Table 7-2 *Residential District Building Type and Development Standards* in Section 17.07.020 for a *Detached House – Suburban* building type. The existing lots located in the Gardner Lake area are smaller than required by the designated R-1 zoning.

**Will the granting of the permit for the variance adversely affect the rights of adjacent property owners or residents?** *(To meet the criterion, a “no” answer is required)*

Applicant: No, the adjacent property owners are in full agreement that the proposed addition would enhance the neighborhood. Please see attached letters. (Page 4)

Staff: Several of the adjacent property owners/residents have written letters in support of granting the variance for the applicant's addition. At the time of this writing, Staff has not received any opposition for this variance. An update will be provided at the Board of Zoning Appeals meeting should there be any change.

**Will the strict application of the provisions of the Zoning Ordinance of which the variance is requested constitute unnecessary hardship upon the property owner represented in the application?** *(To meet the criterion, a “yes” answer is required)*

Applicant: Yes. Strict application of the provisions will endanger my safety, as well as the safety and security of our persons, homes, and possessions.

“I am a fairly recent widow living alone who has now gone through two winters of coming home from work after dark. I am 57 years old and intend to stay in my home as long as I possibly can. A garage into which I can drive and shut the door before exiting my car is a necessity for my continued health and safety.

My driveway is at the bottom of a hill on the west side of my home. As the snow and ice melt in the winter, the water flows down the hill and freezes overnight, which has been known to be very treacherous. I have to go out on the ice to scrape my car windows. If I were to fall, I could lay there for hours before anyone might find me.

Currently I have nowhere to store many of my belongings out of the weather. They are stacked on the west side of my house visible to anyone who drives down our road. This is an invitation for thieves or those who might decide they would rather take than earn. A garage would give me a place to store my belongings out of the weather, preserving them, and out of sight, preserving the safety of our neighborhood.”

Staff: The strict application of the provisions of the LDC of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

**Will the variance desired adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare?** *(To meet the criterion, a “no” answer is required)*

Applicant: No, the proposed addition would enhance the safety, morals, as well as the appearance of the neighborhood.

Staff: The variance, if granted, will not adversely affect the health, safety, morals, order, convenience, prosperity, or general welfare of the public.

**Will the granting of the variance desired be opposed to the general spirit and intent of the Zoning Ordinance?** *(To meet the criterion, a “no” answer is required)*

Applicant: No. The general spirit and intent of the code is to help provide for the safety and security of the residents, as well as keep our neighborhood aesthetically pleasing.

Staff: The variance, if granted, will not oppose the general spirit and intent of the LDC.

**CONCLUSION**

The LDC states that “variances are a process to provide relief from a strict interpretation of the standards of this Code, which when applied to a particular property and in a specific context would create an unnecessary hardship or practical difficulties on all reasonable use of the property.” Because the existing lot is nonconforming to the LDC and does not meet the minimum lot standards of a Detached House – Suburban building type in the designated R-1 Single-Family Residential District zoning, and due to its irregular shape, an unnecessary hardship is imposed on the applicant. Staff is of the opinion that this application meets all criteria for the granting of a variance to construct the addition of an attached 2-car garage and living space above.

**STAFF RECOMMENDATION:**

Staff recommends that the Board of Zoning Appeals approve BZA-20-01, a rear yard setback variance to allow the addition of a 23.6' x 29' (684.4 square foot) double-car garage and additional living space above, 15' from the rear (West) property line.

Kris Steuber & Julie Drake  
15421 Lake Road 3  
Gardner, KS 66030  
July 8, 2020

Dear BZA Members,

We have seen the plans for the proposed addition to 15415 Lake Road 3 and fully support the addition of a garage and living quarters to the current residence. We do not feel that the granting of this variance will in any way adversely affect our rights or the rights of any property owners or residents of Lake Road 3 either now or in the future.

Sincerely,



Kris Steuber & Julie Drake

Larry & Katherine Gilliam  
15411 Lake Road 3  
Gardner, KS 66030  
July 8, 2020

Dear BZA Members,

We have seen the plans for the proposed addition to 15415 Lake Road 3 and fully support the addition of a garage and living quarters to the current residence. We do not feel that the granting of this variance will in any way adversely affect our rights or the rights of any property owners or residents of Lake Road 3 either now or in the future.

Sincerely,



Larry "Butch" & Katherine "Katie" Gilliam



